

**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD**

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.8961 of 1998

Dated: 20-02-2007

Between:

1. P. Balaram, s/o Sayanna,
aged about 70 years,
r/o Farooqnagar (Shadnagar) Mandal proper,
Mahabubnagar District and another.

... Petitioners

and

1. The Special Commissioner,
Land Revenue, Andhra Pradesh,
Nampalli Station road,
Hyderabad and 2 others.

... Respondents

ORDER:

This writ petition is filed seeking *mandamus* declaring the order dated 28-06-1995 passed in Case No.B1/1/93 by the second respondent and as confirmed by the first respondent vide order, dated

07-10-1997 made in Case No.BCW4/1088/95, as arbitrary and illegal.

2. In the affidavit filed in support of the writ petition it is stated that the second petitioner is the son of the first petitioner. The then Tahsildar, Shadnagar, in the year 1962 assigned an area of Ac.0-20 guntas in Sy.No.444 and an area of Ac.1-20 guntas in Sy.No.445/A in the name of the first petitioner; an extent of Ac.1-20 guntas in Sy.No.12/1

(New Sy.No.12/5) situated at Gundlakunta village was assigned in the name of the grandmother of the second petitioner namely,

Smt. Muthamma vide proceedings No.A9/7215/74, dated 12-03-1975; and an area of Ac.5-00 of government dry land in Sy.No.12, in the name of the second petitioner, vide proceedings No.A9/5927/71, dated 24-10-1972. It is stated that immediately after delivery of possession of said lands, the petitioners developed the said lands and they have been in peaceful possession of the same, without any interruption. It is further stated that the Revenue Divisional Officer, Mahabubnagar, based on the directions of the first respondent and the Collector, Mahabubnagar District, conducted an *ex parte* enquiry and based on the said enquiry,

the authorities decided to cancel the said assignments. In consequence thereof, the second respondent issued Notice No.B1/10380/92, dated

17-10-1992 to the petitioners, to show cause as to why the said assignments should not be cancelled and thereupon, they submitted an explanation on 16-11-1992. According to the petitioners, without hearing their counsel, the second respondent vide order dated 28-06-1995 in case No.B.1/1/93, cancelled the assignments in favour of them. Against the said orders, petitioners preferred revision and the

first respondent, while partly allowing the claim of the first petitioner dismissed the revision,

vide order dated 07-10-1997. Challenging the said order, the petitioners filed the present writ petition.

3. Heard learned counsel for the parties.

4. The original authority i.e. the District Revenue Officer, Mahabubnagar – second respondent issued show cause notice on 17-10-1992 for which petitioners' submitted explanation on 16-11-1992. Though the explanation was of the year 1992, the order canceling the assignments was made on 28-06-1995. One of the grounds raised by the petitioners is that the said order is without notice and affording opportunity to them. The said contention appears to be correct. In the order dated 28-06-1995 itself it is stated that the case was taken up for hearing on 31-01-1995 and though notices were served on the respondents (petitioners herein), they were absent and hence, it necessitated the second respondent to close the case as it was an old matter. From the said order, it appears that on 03-02-1995 the counsel for the respondents (petitioners herein) came forward with a petition requesting the second respondent to reopen the matter, so that they may advance their arguments. But the said petition was dismissed and orders were pronounced on 28-06-1995. This clearly shows that the petitioners were not given sufficient opportunity. When the show cause notice and the explanation were of the year 1992 and no hearing has taken place for a period of three years and the matter was closed sometime in the month of January, 1995 and that no orders were passed till a petition to reopen the petition was filled on 03-02-1995, the second respondent should have afforded an opportunity by

reopening the matter so that the petitioners could have advanced their arguments.

5. Accordingly, the order passed by the second respondent on 28-06-1995 as well as the order dated 07-10-1997 passed by the first respondent are set aside with a direction to the second respondent – District Revenue Officer, to give an opportunity to the petitioners to advance their arguments and pass appropriate orders in the matter in accordance with law. The entire exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. It is made clear that, pending disposal of the said enquiry, there shall be a direction to the respondents not to dispossess the petitioners from the lands in question.

6. With the above directions, the writ petition is disposed of. No costs.

JUSTICE GOPALAKRISHNA TAMADA

Dt.20-02-2007

GLV